

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: OCTOBER 4, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-14320 - APPLICANT/OWNER: DFA, LLC, ET AL**

---

**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Conformance to the Conditions for Rezoning (ZON-13837), Variance (VAR-16049), Special Use Permit (SUP-13836), Special Use Permit (SUP-14324), Special Use Permit (SUP-14329), and Site Development Plan Review (SDR-13833) if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

This is a request for a Variance to allow a setback of 73 feet where Residential Adjacency Standards require a minimum 84-foot setback, and to allow a zero-foot side yard building setback where 10 feet is the minimum setback required in conjunction with a proposed Rental Store with Outside Storage on 20.53 acres at the northeast corner of Bonanza Road and Clarkway Drive. The item was abeyed from the 07/27/06 Planning Commission meeting to give the applicant opportunity to meet with surrounding property owners.

**EXECUTIVE SUMMARY**

No hardship relating to the existing site is evident that would warrant allowing reduced setbacks in either case. If approved, a 20 to 25-foot split-face wall would be created along 530 feet of the east property line adjacent to existing condominiums. In addition, the related Rezoning case that would allow the proposed buildings is not recommended. Consequently, the recommendation is for denial.

**BACKGROUND INFORMATION**

- |          |   |
|----------|---|
| 07/21/71 | The Board of City Commissioners approved a Rezoning (Z-0039-71) from R-E (Residence Estates) to R-3 (Medium Density Residential) on property generally located on the north side of Bonanza Road between Clarkway Drive and Sunny Place.  |
| 09/28/71 | The Planning Commission approved a Plot Plan Review [Z-0039-71(1)] for a proposed two-story 24-unit apartment development at 1804 West Bonanza Road.  |
| 06/15/94 | The City Council approved a Rezoning (Z-0043-94) from R-E (Residence Estates) to C-1 (Limited Commercial) at 1724 West Bonanza Road. The approval expired 06/15/96.   |
| 12/21/98 | The City Council approved a General Plan Amendment (GPA-0014-98) from M (Medium Density Residential) to SC (Service Commercial) and a request for Rezoning (Z-0026-98) from R-E (Residence Estates) to C-1 (Limited Commercial) on 1.0 acre at the northeast corner of Bonanza Road and Clarkway Drive. The Resolution of Intent did not have an expiration date. |

- 05/21/03      The City Council approved requests for a General Plan Amendment (GPA-1989) from M (Medium Density Residential) and SC (Service Commercial) to SC (Service Commercial); Rezoning (ZON-1992) from R-3 (Medium Density Residential) to C-1 (Limited Commercial) and Site Development Plan Review (SDR-1991) for a proposed 5,255 square-foot office development on 0.57 acres at 1722 West Bonanza Road. The offices were to be converted from two existing apartment buildings. The Planning Commission and staff recommended approval.
- 01/18/06      The City Council approved a Rezoning (ZON-9925) of property on the south side of Bonanza abutting the current Ahern property from C-2 (General Commercial) and R-E (Residence Estates) to C-M (Commercial/Industrial). The Planning Commission and staff recommended approval.
- 01/30/06      Planning and Development Department staff denied the applicant's request for a Temporary Commercial Permit (TCP-9385) to allow a Temporary Contractor's Construction Yard on a portion of the subject site. The applicant appealed the denial to the Planning Commission.
- 04/05/06      The City Council approved a Variance (VAR-11006) to allow an eight-foot wrought iron fence where four feet is the maximum height allowed and a waiver of the 20 percent contrasting material requirement at 1700, 1710, 1714, 1718, 1722, 1804, 1808, 1812, 1816, and 1824 West Bonanza Road.
- 03/29/06      The Code Enforcement Division of the Neighborhood Services Department indicated that the site failed to pass a compliance inspection.
- 04/24/06      The Code Enforcement Division of the Neighborhood Services Department issued to the applicant a Notice and Order to Comply with Municipal Code. Violations included employee parking on R-E and R-3 zoned property, portable toilet onsite, vacant R-3 zoned property has piles of refuse, waste, asphalt and dirt, and R-E property being used as commercial storage yard.
- 05/17/06      The City Council approved a revision (GPA-9219) to the land use map of the Downtown Redevelopment Area and an ordinance (Ord. #5830) adopting the amended plan. The amended plan includes all parcels within the subject site.
- 05/25/06      The Planning Commission approved the appeal (DIR-11779) of the Director's decision to deny a Temporary Commercial Permit per Title 19.18.100.D that would allow a Temporary Contractor's Construction Yard on 15.54 acres adjacent to the north side of Bonanza Road, approximately 460 feet east of Clarkway Drive. The Temporary Commercial Permit was not to exceed six months from the date of approval.

09/07/06 The Planning Commission recommended approval of companion items ZON-13837, VAR-16049, SUP-13836, SUP-14324, SUP-14329 and SDR-13833 concurrently with this application.

09/07/06 The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #26/ss).

***B) Pre-Application Meeting***

05/31/06 Staff advised the applicant of the submittal requirements for each application, and established that the Rental Store, Major Auto Repair Garage, and Truck Rental uses were present and would require Special Use Permits. Standards for each use and for site development were reviewed. The applicant was advised to increase screening of the storage area.

***C) Neighborhood Meetings***

08/09/06 Title 19 does not require a neighborhood meeting for this application; however, at the suggestion of the Planning Commission, the applicant did hold a meeting in which 22 members of the public attended. The meeting was to be related to the proposed office project to the east of this site, but most questions were focused on the equipment rental proposal. The following concerns were raised:

- When will the berm be removed?
- Why did the berm not have a permit in the first place?
- Why are the hours of operation exceeding the limit placed by Council in DIR-11779?
- Why has the landscaping required by DIR-11779 not been installed?
- How tall will the rental equipment be?
- What will be stored on site? Can a list of those items be given to the residents?
- Request for no access to Washington
- Request to leave site R-E

**DETAILS OF APPLICATION REQUEST**

***A) Site Area***

Net Acres: 20.53

***B) Existing Land Use***

Subject Property: Temporary Contractor's Construction Yard and Offices

North: Single-Family Dwellings

South: Equipment Rental Store with Outside Storage

East: Condominiums and Single-Family Dwellings

West: Single-Family Dwellings

**C) *Planned Land Use***

Subject Property: C (Commercial – Downtown Redevelopment Designation)  
MXU (Mixed-Use – Downtown Redevelopment Designation)  
North: R (Rural Density Residential)  
South: I (Industrial – Downtown Redevelopment Designation)  
East: MXU (Mixed-Use – Downtown Redevelopment Designation)  
West: MXU (Mixed-Use – Downtown Redevelopment Designation)

**D) *Existing Zoning***

Subject Property: R-E (Residence Estates)  
R-E (Residence Estates) under Resolution of Intent to C-1 (Limited Commercial)  
R-3 (Medium Density Residential)  
C-1 (Limited Commercial)  
North: R-E (Residence Estates)  
South: R-E (Residence Estates)  
C-2 (General Commercial)  
C-M (Commercial/Industrial)  
East: R-3 (Medium Density Residential)  
R-E (Residence Estates)  
West: R-E (Residence Estates)

**E) *General Plan Compliance***

The subject site is designated C (Commercial) and MXU (Mixed Use) by the Downtown Redevelopment Area Land Use Map. A wide range of uses, including low to high-density residential, office, retail and other commercial uses are allowed by these designations. The proposed rental office and storage activities are permitted under these land use categories.

<b><i>SPECIAL DISTRICTS/ZONES</i></b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>	<b>X</b>	
West Las Vegas Plan	X	
Redevelopment Plan Area	X	
<b>Special Overlay District</b>	<b>X</b>	
Airport Overlay District	X	
<b>Trails</b>	<b>X</b>	
<b>Rural Preservation Overlay District</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

Redevelopment Area

The subject site is part of the Downtown Redevelopment Area, which is a portion of the overall Las Vegas Redevelopment Area. It is designated for both commercial and mixed commercial and residential uses. No additional development standards are placed on the project as a result of its inclusion in the Redevelopment Plan. Rather, this designation simply targets the property for increased development efforts and improves access to redevelopment assistance.

#### West Las Vegas Plan

The subject property is located on the edge of the West Las Vegas plan area. This plan focuses mostly on the revitalization of residential areas in the heart of Las Vegas, but its objectives also emphasize the importance of re-investing in deteriorating commercial centers and creating an interesting urban environment. Increasing density and the mixing of uses is also a focus of the plan.

#### Airport Overlay District

The subject property is located within the North Las Vegas Airport Overlay District, which restricts the height of buildings to 140 feet in this area of the city. According to Title 19, all development within the airspace above the height of 35 feet above the surface of the land, lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces is subject to the height standards established on the Airport Overlay Map. The maximum height of the tallest structure proposed on the subject site is 28 feet; therefore, the proposed structures are not subject to the Airport Overlay District standards.

#### Trails

The Pioneer Trail is an existing trail that runs along West Bonanza Road at the northern edge of the property. No additional requirements will be placed on the applicant as a result of this trail. A Pedestrian Path, which includes a five-foot wide sidewalk and a minimum five-foot wide commonly owned transition strip containing landscaping and streetlights, is also required along Bonanza Road. Since the Pioneer Trail is already in place, all that is required of the developer is construction of the landscaped transition area, which is indicated as a 16-foot buffer on the plans.

#### Buffer Area for RPOD

The subject site is not located within the Rural Preservation Overlay District (RPOD) as described in Title 19.06.150. Several parcels on the site formerly in the RPOD were recently removed. The northern portion of the property is located within 330 feet of parcels included in the RPOD. Efforts should be taken therefore to preserve a rural character in this area.

## **ANALYSIS**

### ***A) Zoning Code Compliance***

#### **A1) Development Standards**

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

<b>Standards</b>	<b>Required</b>	<b>Requested</b>	<b>Compliance</b>
Min. Setbacks			
• Front	20 Feet	157 Feet	Y
• Side	10 Feet	0 Feet	N
• Corner	15 Feet	77 Feet	Y
• Rear	20 Feet	574 Feet	Y

The proposed hardware and repair facilities will require a variance from the minimum side yard building setback standard to allow zero feet where a minimum of 10 feet is required. To this end, VAR-14320 has been submitted. The amount of deviation from the standard is 100 percent. A variance is also required from the residential adjacency setback, which is detailed in the section below.

**A2) Residential Adjacency Standards**

Pursuant to Title 19.08, the following Residential Adjacency Standards apply to the subject proposal:

- a) Proximity slope. The height of the covered storage facility is 28 feet, requiring a minimum setback of 84 feet from adjacent single-family residential property to the north as dictated by the 3:1 Proximity Slope. The site plan indicates that the facility will be set back approximately 73 feet from the protected property, thereby requiring a variance. To this end, the subject Variance has been submitted. The amount of deviation from the standard is 13 percent.
- b) Building setback. A minimum of 10 feet setback is required from the property line of the protected property to meet this standard. The site plan indicates that the facility will be set back approximately 73 feet from the protected property, in compliance with the standard.

***B) General Analysis and Discussion***

The subject variance is sought in conjunction with a proposed hardware/rental store and repair shop for damaged rental goods. The buildings are proposed along the east property line without a setback so as to eliminate a walled-in area between the project and the adjacent condominium development where refuse may collect. This configuration will allow for additional parking in front of the hardware/rental store. The buildings together have a length of 530 feet along this property line and range in height from 20 to 25 feet. The east elevation will resemble a tall, split-face decorative wall. No hardship is evident, given the size and shape of the subject property. In addition, the approval of these buildings requires rezoning of the site to C-2 (General Commercial) to allow more intense uses. This Rezoning action is not supported, as the proposed uses would be incompatible with surrounding residential uses. Therefore, denial is recommended for this request.

As part of this request, the applicant seeks to reduce the setback from protected residential property of a proposed covered storage area in the southwest portion of the site. In this case, the site is constrained not by the property itself but by the size of the structure and the proposed parking configuration. In the absence of a true hardship, a Variance cannot be recommended to reduce the required setback

## **FINDINGS**

In accordance with the provisions of Title 19.18.070.B, the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070.L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented by the applicant. The site will allow for the required 10-foot setback along the east property line. In addition, the adjacency hardship is a result of the height and size of the covered storage building, which are controlled by the applicant. An alternative building design would allow conformance to Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

19

**ASSEMBLY DISTRICT**      6

**SENATE DISTRICT**      4

**NOTICES MAILED**      224 by City Clerk

**APPROVALS**      0

**PROTESTS**      0